

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

FIRST REGULAR SESSION  
FIFTY-SEVENTH LEGISLATURE

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**EIGHTIETH LEGISLATIVE DAY  
WEDNESDAY, MARCH 26, 2003**

Senate Chamber

President Risch called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Calabretta, absent and formally excused by the Chair; and Senators Andreason, Cameron, Marley, Noble, Pearce, Schroeder, Stegner, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Brittany Jensen, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

Senator Andreason was recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 25, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senators Cameron, Marley, Pearce, Schroeder, and Stegner were recorded present at this order of business.

March 26, 2003

The JUDICIARY AND RULES Committee reports that **S 1173, S 1174, S 1175, SJR 101, and SCR 116** have been correctly printed.

DARRINGTON, Chairman

**S 1173** and **S 1174** were referred to the Education Committee.

**S 1175** and **SJR 101** were referred to the State Affairs Committee.

**SCR 116** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 25, 2003

The JUDICIARY AND RULES Committee reports that **S 1093, S 1123, S 1134, S 1154, S 1155, S 1156, S 1157, S 1158, S 1159, and S 1161** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1093, S 1123, S 1134, S 1154, S 1155, S 1156, S 1157, S 1158, S 1159, and S 1161** and ordered them transmitted to the House for the signature of the Speaker.

March 25, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1016, S 1120, and S 1130**, as amended, were delivered to the Office of the Governor at 2:35 p.m., March 25, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 24, 2003

The FINANCE Committee reports out **H 370, H 371, and H 372** with the recommendation that they do pass.

CAMERON, Chairman

**H 370, H 371, and H 372** were filed for second reading.

March 25, 2003

The EDUCATION Committee reports out **H 301** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

SCHROEDER, Chairman

There being no objection, **H 301** was referred to the Fourteenth Order of Business, General Calendar.

March 25, 2003

The EDUCATION Committee reports out **S 1169 and S 1170** with the recommendation that they do pass.

SCHROEDER, Chairman

**S 1169** and **S 1170** were filed for second reading.

March 26, 2003

The AGRICULTURAL AFFAIRS Committee reports out **H 228** with the recommendation that it do pass.

WILLIAMS, Chairman

**H 228** was filed for second reading.

March 26, 2003

The COMMERCE AND HUMAN RESOURCES Committee reports out **H 306** with the recommendation that it do pass.

ANDREASON, Chairman

**H 306** was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

March 25, 2003

Mr. President:

I transmit herewith **HCR 24**, as amended, and **H 363** which have passed the House.

JUKER, Chief Clerk

**HCR 24**, as amended, and **H 363** were filed for first reading.

March 25, 2003

Mr. President:

I transmit herewith Enrolled **H 195**, as amended in the Senate, as amended in the Senate, for the signature of the President, and I return herewith Enrolled **S 1059** and **S 1066**, which have been signed by the Speaker.

JUKER, Chief Clerk

The President signed Enrolled **H 195**, as amended in the Senate, as amended in the Senate, and ordered it returned to the House.

Enrolled **S 1059** and **S 1066** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

The President announced that **HJM 8** was before the Senate for final consideration.

Moved by Senator Richardson, seconded by Senator Sorensen, that **HJM 8** be adopted. The question being, "Shall the memorial be adopted?"

Roll call vote was requested by Senators Richardson, Davis, and Little.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Sweet, Williams. Total - 30.

NAYS--Burkett. Total - 1.

Absent and excused--Calabretta, Noble, Stennett, Werk. Total - 4.

Total - 35.

The President declared **HJM 8** adopted, title was approved, and the memorial ordered transmitted to the House.

The President announced that **HCR 17** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Sweet, seconded by Senator Davis, **HCR 17** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**HCR 24**, as amended, by Ways and Means Committee, was introduced, read at length, and referred to the State Affairs Committee.

**H 363**, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

#### Second Reading of Bills

**H 269**, as amended, by Education Committee, was read the second time at length and filed for third reading.

**H 273**, by Ways and Means Committee, was read the second time at length and filed for third reading.

**H 264** and **H 317**, by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

**H 339**, by Ways and Means Committee, was read the second time at length and filed for third reading.

**H 327**, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

**S 1171**, by State Affairs Committee, was read the second time at length and filed for third reading.

**H 322** and **H 357**, by State Affairs Committee, were read the second time at length and filed for third reading.

**S 1122**, as amended in the House, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

Senator Stennett was recorded present at this order of business.

**H 11**, having been held for this day, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Compton arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Calabretta, Noble. Total - 2.

Total - 35.

Whereupon the President declared **H 11** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, **H 9**, as amended, as amended in the Senate, was placed before the Senate for consideration at this time.

**H 9**, as amended, as amended in the Senate, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Compton arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Calabretta, Noble. Total - 2.

Total - 35.

Whereupon the President declared **H 9**, as amended, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

**H 302**, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Ingram arose as sponsor of the bill and opened the debate.

On request by Senator Ingram, granted by unanimous consent, **H 302** retained its place on the Third Reading Calendar for one legislative day.

Senator Noble was recorded present at this order of business.

**H 331** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Burkett, Compton, Davis, Gannon, Goedde, Hill, Ingram, Kennedy, Keough, Little, Malepeai, Marley, McWilliams, Noh, Richardson, Schroeder, Stegner, Stennett, Werk. Total - 20.

NAYS--Bailey, Brandt, Burtenshaw, Cameron, Darrington, Geddes, Lodge, McKenzie, Noble, Pearce, Sweet, Williams. Total - 12.

Absent and excused--Bunderson, Calabretta, Sorensen. Total - 3.

Total - 35.

Whereupon the President declared **H 331** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Stennett, granted by unanimous consent, **H 149** retained its place on the Third Reading Calendar for one legislative day.

**H 150**, as amended in the Senate, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Ingram and Brandt arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Bunderson, Calabretta, Sorensen. Total - 3.

Total - 35.

Whereupon the President declared **H 150**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

**H 64**, as amended, as amended in the Senate, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Kennedy arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Bunderson, Calabretta, Sorensen. Total - 3.

Total - 35.

Whereupon the President declared **H 64**, as amended, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

### General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

### Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1133, H 218, H 177, H 65, H 301, and H 169**, as amended, without recommendation, amended as follows:

### SENATE AMENDMENTS TO S 1133

#### AMENDMENTS TO SECTION 1

On page 2 of the printed bill, in line 39, delete "fireplaces and stoves" and insert: "furnaces"; on page 3, in line 1, following "appliances." delete the remainder of the line; delete line 2; in line 19, following "(2) The" delete the remainder of the line; delete line 20; delete lines 31 through 41 and insert:

"(3) Of the seven (7) board members, two (2) members shall be active HVAC contractors with not less than five (5) years' experience in the HVAC contracting business; one (1) member shall be a city official; one (1) member shall be a county official; one (1) member shall be a private sector mechanical engineer with experience in mechanical system design; one (1) member of the initial board shall be a contractor member of the Idaho electrical board who shall serve a two (2) year term and thereafter the sixth board member shall be a specialty contractor who shall serve a three (3) year term; and one (1) member of the initial board shall be a contractor member of the Idaho plumbing board who shall serve a two (2) year term and thereafter the seventh board member shall be an HVAC contractor with not less than five (5) years' experience in the HVAC contracting business who shall serve a three (3) year term."

On page 4, in line 31, following "Appoint" insert: "state"; on page 5, in line 31, delete "HVAC contractor" and insert: "person"; in line 34, following "appliances." insert: "A certificate of competency issued for the installation of hearth and barbecue products shall include the authority for all low voltage work necessary to complete the installations."; on page 7, in line 15, following "board" delete the remainder of the line; in line 16, delete "that has chosen to adopt and enforce mechanical codes,."; in line 17, following "required." delete the remainder of the line; delete line 18; in line 40, following "inspection." delete the remainder of the line; delete line 41; in line 47, delete "and local government"; and also in line 47, delete "skilled" and insert: "knowledgeable"; and on page 8, following line 7, insert:

"(4) Each local government mechanical inspector shall be certified as a mechanical inspector.";

and in line 35, delete "monthly" and insert: "as directed by the provisions of section 59-1014, Idaho Code".

### SENATE AMENDMENT TO H 218

#### AMENDMENTS TO SECTION 2

On page 2 of the printed bill, in line 1, delete "sentence of death" and insert: "~~sentence of~~ death warrant"; in line 2, following "record" insert: "and the agents of their attorneys of record"; delete lines 25 and 26; in line 27, delete "(9)" and insert: "(8)"; also in line 27, delete "Contact" and insert: "When a person has been sentenced to death, but the death warrant has been stayed, contact"; in line 30, delete "(10)" and insert: "(9)"; in line 35, delete "(11)" and insert: "(10)"; in line 40, delete "(12)" and insert: "(11)"; in line 44, delete "close custody" and insert: "maximum security"; and in line 49, delete "(13)" and insert: "(12)".

## CORRECTIONS TO TITLE

On page 1, in line 9, following "EXECUTION," insert: "TO PROVIDE THAT PERSONS UNDER DEATH WARRANT WILL BE ALLOWED CONTACT VISITS WITH THEIR ATTORNEYS OF RECORD AND THE AGENTS OF THEIR ATTORNEYS OF RECORD,"; and in line 20, delete "CLOSE CUSTODY" and insert: "MAXIMUM SECURITY".

**SENATE AMENDMENT TO H 177**  
AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 12, delete "OR MOBILE HOME PARK"; delete lines 15 and 16 and insert: "homes and mobile homes in existing manufactured home parks to acquire individual ownership interest in the lots on which the dwell-"; delete lines 31 through 41 and insert:

"(4) "Manufactured home park" means any real property which is rented or held out for rent to others for the placement of five (5) or more manufactured homes or mobile homes for the primary purpose of production of income and in which at least two-thirds (2/3) of the total housing units are manufactured homes.

(5) "Mobile home" means a structure similar to a manufactured home, but built to mobile home code prior to June 15, 1976, the date of enactment of the federal manufactured housing and safety standards act (HUD Code).

(6) "Owner" means the person having legal title to the manufactured home park."

On page 2, in line 1, delete "(8)" and insert: "(7)"; in line 4, delete "(9)" and insert: "(8)"; delete line 5 and insert: "manufactured home park."; in line 6, delete "OR MOBILE HOME PARK"; in line 10, delete "or a mobile home park"; delete lines 14 and 15 and insert:

"(a) The park has previously been reviewed under the governing body's land use planning ordinance, is in conformance with the governing body's zoning regulations and is in compliance with the governing body's standards for a manufactured home park; and"; delete lines 19 and 20 and insert:

"(c) The local public health district has certified that any drinking water and sewer systems servicing the park meet applicable standards and the park has no current written notices of violation of public health or environmental laws; and";

in line 41, delete "OR MOBILE"; in line 42, delete "HOME PARK"; and in line 45, delete "or a mobile home park".

## CORRECTION TO TITLE

On page 1, in line 4, delete "OR"; in line 5, delete "MOBILE HOME PARK"; and in line 6, delete "OR MOBILE HOME PARK".

**SENATE AMENDMENT TO H 65**  
AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 37, delete "abandoned"; and in line 44, delete "abandoned".

## AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 9, following "PARKS" insert: "AND RECREATIONAL TRAILWAYS"; in line 13, following "parks" insert: "or recreational trailways"; on page 2, in line 37, delete "State Park" and insert: "Recreational Trailway"; and in line 44, delete "State Park".

## CORRECTION TO TITLE

On page 1, in line 3, following "PARKS" insert: ", RECREATIONAL TRAILWAYS".

**SENATE AMENDMENTS TO H 301**  
AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 14, delete "and board of regents of the university of Idaho"; in line 18, delete "eight" and insert: "four" and also in line 18, delete "8" and insert: "4"; and in line 19, delete "individual" and insert: "average".

## AMENDMENTS TO SECTION 2

On page 1, in lines 28 and 29, delete "and board of regents of the university of Idaho"; and in line 30, following "Code." insert: "The state board of education shall identify an oversight committee made up of knowledgeable individuals or organizations to assist in the administration of this fund. Members of this oversight committee should come from the Idaho hospital association, Idaho medical association, office of rural health, Idaho rural health education center, medical student program administrators and others as appropriate.".

## AMENDMENTS TO SECTION 3

On page 1, in line 36, delete "and board of regents of the university of Idaho"; and in line 38, following "practice" insert: "primary care medicine"; and on page 2, in line 5, following "board" insert: ", through the oversight committee,".

## CORRECTION TO TITLE

On page 1, in line 8, following "PAYMENTS" insert: "FOR PRIMARY CARE PHYSICIANS".

**SENATE AMENDMENTS TO H 169, As Amended**  
AMENDMENTS TO SECTION 1

On page 1 of the engrossed bill, in line 21, delete "Where she is physically helpless, and the accused knows or reasonably"; delete lines 22 and 23; in line 24, delete "5."; in line 29, delete "56." and insert: "5."; in line 35, delete "1." and insert: "1."; delete lines 36 through 38; in line 39, delete "67." and insert: "6."; in line 42, delete "78." and insert: "7."; and on page 2, delete lines 5 and 6.

## AMENDMENTS TO SECTION 3

On page 2, in line 16, delete "6., 8. or" and insert: "or 7."; and in line 17, delete "9.".

## AMENDMENTS TO SECTION 4

On page 2, in line 23, delete "6., 8. or" and insert: "or 7."; and in line 24, delete "9.".

## AMENDMENTS TO THE BILL

On page 2, delete lines 7 through 11; in line 12, delete "SECTION 3" and insert: "SECTION 2"; and in line 19, delete "SECTION 4" and insert: "SECTION 3".

## CORRECTIONS TO TITLE

On page 1, in line 3, delete "AMENDING SECTION 18-6107, IDAHO CODE, TO PROVIDE A CORRECT"; and in line 4, delete "CODE CITATION;".

The Committee also has **H 52** and **H 136** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Stennett, the report was adopted by voice vote.

**S 1133**, as amended, was referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

**H 218**, as amended in the Senate, **H 177**, as amended in the Senate, **H 65**, as amended in the Senate, **H 301**, as amended in the Senate, and **H 169**, as amended, as amended in the Senate, were filed for first reading as amended and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:20 p.m. until the hour of 10:15 a.m., Thursday, March 27, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary